



STANFORD UNIVERSITY MEDICAL CENTER

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STANFORD UNIVERSITY SCHOOL OF MEDICINE  
Department of Genetics

SEP 17 1970

Subj: Sen. J. Res. 1.

Hon. Birch Bayh  
U.S. Senate

Dear Senator Bayh:

I hope this is not a moot point by the time you get this, but I wish to call your attention to a technical omission in the proposed amendment. The language very carefully prohibits candidate X from joining with W as well as Z in such a way as to present a confusing set of overlapping choices. However, it does not seem to prevent X and Y from pairing in two ways, namely

X - for pres.		Y. for pres.
Y - for vice-pres.	and vice versa.	X. for VP.

In fact the language may not be as tight as it should be in making clear that X-Y must not only associate as a pair, but also make a definite and unambiguous choice to appear on the ballot in just one of these ways.

Needless to say, such technicalities should be attended to more meticulously in constructing the law of the presidency than would be desirable for most other situations.

Your advisers learned in Constitutional law may be able to tell you that the legislative history of the resolution already precludes, or may be made to preclude, these anomalies without requiring changes in the text; and if so I would be interested to hear it.

It would be unfortunate if such an issue were to be raised for the first time, half-way through the ratification process as a way of frustrating it.

Yours sincerely,

15A YH, 15:1004

September 8, 1970

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together can then urge the States also to give their approval.

The question that confronts the Senate is whether we will have direct popular election or no reform at all.

EXHIBIT 1

S.J. RES. 1

A Joint Resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:*

ARTICLE —

SECTION 1. The people of the several States and the District constituting the seat of government of the United States shall elect the President and Vice President. Each elector shall cast a single vote for two persons who shall have consented to the joining of their names as candidates for the offices of President and Vice President. No candidate shall consent to the joinder of his name with that of more than one other person.

SEC. 2. The electors of President and Vice President in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature, except that for electors of President and Vice President, the legislature of any State may prescribe less restrictive residence qualifications and for electors of President and Vice President the Congress may establish uniform residence qualifications.

SEC. 3. The pair of persons having the greatest number of votes for President and Vice President shall be elected, if such number be at least 40 per centum of the whole number of votes cast for such offices. If no pair of persons has such number, a runoff election shall be held in which the choice of President and Vice President shall be made from the two pairs of persons who received the highest number of votes.

SEC. 4. The time, places, and manner of holding such elections and entitlement to inclusion on the ballot shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations. The days for such elections shall be determined by Congress and shall be uniform throughout the United States. The Congress shall prescribe by law the time, place, and manner in which the results of such elections shall be ascertained and declared.

SEC. 5. The Congress may by law provide for the case of the death, inability, or withdrawal of any candidate for President or Vice President before a President and Vice President have been elected, and for the case of the death of both the President-elect and Vice-President-elect.

SEC. 6. The Congress shall have power to